

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MELISSA LINDFORS,

No. C 13-0851 MMC

Plaintiff,

**ORDER GRANTING DEFENDANT'S  
MOTION TO DISMISS**

v.

ENTERPRISE-RENT-A-CAR COMPANY  
OF SAN FRANCISCO, RONALD HENRY  
BERG, DOES 1-30,

Defendants.

Before the court is defendant United States of America's Motion to Dismiss, filed March 4, 2013.<sup>1</sup> By said motion the United States seeks an order (1) dismissing defendant Ronald Henry Berg with prejudice for the reason that said individual is no longer a proper defendant to the action, and (2) dismissing the United States without prejudice for the reason that plaintiff has not complied with the exhaustion requirement of the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq. On March 22, 2013, plaintiff filed a Non-Opposition to Defendant's Motion to Dismiss. Having read and considered the papers filed in support of and in response to the motion, the Court finds the matter suitable for decision on the

---


<sup>1</sup> The Chief of the Civil Division of the United States Attorney's Office has certified that defendant Ronald Henry Berg was acting within the course and scope of his employment with the Federal Deposit Insurance Corporation at all times material to plaintiff's claim. (See Certification, filed Feb. 26, 2013). Consequently, the instant action is "deemed to be an action . . . brought against the United States," and the United States is "substituted as the party defendant" by operation of law. See 28 U.S.C. § 2679(d)(2).

1 parties' respective written submissions, VACATES the hearing scheduled for April 12,  
2 2013, and hereby GRANTS the motion.

3 Accordingly, plaintiff's claims against Ronald Henry Berg are hereby DISMISSED  
4 with prejudice and plaintiff's claims against the United States are hereby DISMISSED  
5 without prejudice to plaintiff's refiling said claims after compliance with the above-  
6 referenced exhaustion requirement.

7 **IT IS SO ORDERED.**

8  
9 Dated: March 27, 2013

  
MAXINE M. CHESNEY  
United States District Judge